

North Korea Sanctions Enforcement Act of 2013
Draft Sectional Analysis

Section 2—Definitions (if not self-explanatory).

Section 2(5). “Designated Person” means subject to sanctions, including the North Korean government entities, banks and businesses previously sanctioned under executive orders and U.N. Security Council resolutions, and banks and businesses that facilitate North Korea’s proliferation, illicit activities, luxury goods trade, and human rights violations.

Title I—Criminal Investigations and Penalties.

Section 101. This section establishes that the purpose of the legislation is to enforce sanctions against North Korea to disarm it using non-military means.

Section 102. This section requires the President to investigate sanctionable conduct involving North Korea and requires the President to designate entities that facilitate designated activities.

Section 103. This section requires regular briefings to Congress on North Korean assets and transactions, so that Congress can oversee the enforcement of sanctions and ensure that North Korea is cut off from its offshore assets and income.

Section 104. This section describes the conduct and entities subject to sanctions in greater detail, and applies the criminal and civil penalties of the International Emergency Economic Powers Act to those activities.

Section 105. This section deposits any assets subject to criminal, civil, or administrative forfeiture or penalties under this Act into a special fund for the enforcement of these sanctions, and for humanitarian purposes under the North Korean Human Rights Act of 2004.

Title II-Sanctions for proliferation of weapons of mass destruction, money laundering, and crimes against humanity.

Section 201. This section, partially adapted from Iran sanctions legislation and Burma sanctions regulations, declares North Korea to be a primary money laundering concern, blocks North Korean banks from direct or indirect access to the U.S. financial system, and requires “special measures” against designated persons, North Korean government entities, and banks that provide financial services to North Korea’s government, officials, and banks. These sanctions are an extremely powerful deterrent. The very suggestion that they may be applied is often sufficient to cause banks to cut their ties to the target. The 2005 sanctions that devastated [Banco Delta Asia](#) and [its North Korean client](#) were such a strong deterrent that two years later, the Bank of China [refused](#) the [requests](#) of the U.S. and Chinese governments to transfer \$25 million in tainted funds to North Korea. This section also provides for a variety of other sanctions to block the assets of designated persons, and to deny visas to officials and officers of sanctioned entities.

Section 202. This section discourages, and potentially sanctions, those who provide specialized financial messaging services (such as those provided by the SWIFT network) to North Korean banks. In the case of Iran sanctions, lobbying by the Treasury Department caused the European

Council to force SWIFT to cut off a series of sanctioned Iranian banks. This measure will help cut North Korea's access to the global financial system.

Section 203. This section re-imposes sanctions under the Export Administration Act and the Arms Export Control Act that applied to North Korea until it was removed from the list of state sponsors of terrorism in 2008. President Bush removed North Korea from that list in exchange for promises to disarm, promises which North Korea has since broken.

Section 204. This section bars designated persons, their officers, and their subsidiaries from receiving U.S. government contracts.

Section 205. This section clarifies sanctions against those who help North Korea smuggle weapons and other illicit cargo. Cargo coming from ports that consistently fail to inspect North Korean cargo, as required by multiple U.N. resolutions, is subjected to increased inspection requirements. It also allows authorities to seize any ships or aircraft used for smuggling.

Section 206. This section requires the United States to oppose financial assistance to North Korea through international financial institutions. It also makes any nation that trades in lethal military equipment with North Korea—in violation of multiple U.N. Security Council Resolutions—ineligible for U.S. assistance, absent a presidential waiver. Since 2007, North Korea has been caught shipping arms to [Burma](#), [Ethiopia](#), and the [Republic of Congo](#).

Section 207. This section provides for exclusions and waivers from sanctions for humanitarian aid, consular activities, for cooperating witnesses and banks, and when vital to the economic or national security interests of the United States.

Title III—Promotion of Human Rights and Disinvestment.

Section 301. This section requires the President to study the feasibility of bringing unmonitored and inexpensive cellular and internet communications to the people of North Korea.

Section 302. This section, adapted from the Iran Threat Reduction and Syria Human Rights Act (ITRSHRA) of 2012, requires issuers regulated by the Securities and Exchange Commission to disclose their designated activities, or transactions with designated persons, in their annual and quarterly reports. This helps investors understand their investment risks, and helps businesses to divest from companies doing business in North Korea.

Section 303. This section, adapted from the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA), encourages state and local governments to divest from companies that invest in North Korea, and provides a procedure for a company that is the subject of a potential divestment action to challenge the decision to divest.

Section 304. This provision, adapted from the CISADA, protects fund managers from liability for their divestiture from companies with investments in North Korea.

Section 305. This section expresses that CISADA pension fund managers who divest from companies doing business in North Korea do not thereby breach their fiduciary duties.

Section 306. This section requires a report by the State Department on North Korea's political prison camps, which are estimated to hold 200,000 men, women, and children. It is intended to focus greater public attention on North Korea's grave and pervasive crimes against humanity.

Section 307. This section allows U.S. victims of North Korean terrorism or torture to collect money damages against North Korea. Multiple plaintiffs have obtained [judgments](#) against North Korea for nearly \$500 million, including sailors from the U.S.S. *Pueblo* and survivors of the 1972 Lod Airport massacre. This section waives the same immunity that is already waived for Iran, Syria, and other listed state sponsors of terrorism.

Title IV—Authorities

Section 401. This provision provides for a one-year suspension of sanctions, renewable for one consecutive year, if North Korea takes significant steps toward disarmament and reform, while preventing the premature relaxation of sanctions for false North Korean promises.

Section 402. This section terminates these sanctions if North Korea undergoes a fundamental change of governance toward an open, free, and peaceful society.

Section 403. This section authorizes the appropriation of seized and forfeited funds for investigations of North Korea's proliferation, money laundering, and crimes against humanity, and for certain humanitarian purposes of the North Korea Human Rights Act of 2004.

Section 404. This section authorizes the President to further delegate authorities under this Act.

Section 405. This section establishes the effective date of the provisions of this Act.